

**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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(360) 753-3444

DO NOT WRITE IN THIS SPACE

**REQUEST TO PROCEED  
WITH  
QUESTION CONCERNING REPRESENTATION**

Instructions: See other side of this form.

Applicable Rules: Chapters 10-08, 391-08 and 391-25 WAC.

**1. UNFAIR LABOR PRACTICE PROCEEDINGS** A complaint charging unfair labor practices is currently pending before the Commission under Chapter 391-45 WAC, as follows:

a. CASE NUMBER \_\_\_\_\_ -U- \_\_\_\_\_ - \_\_\_\_\_

b. EMPLOYER \_\_\_\_\_

c. COMPLAINANT \_\_\_\_\_

d. RESPONDENT \_\_\_\_\_

**2. REPRESENTATION PROCEEDINGS** A representation petition is currently pending before the Commission under Chapter 391-25 WAC, as follows:

a. CASE NUMBER \_\_\_\_\_ -E- \_\_\_\_\_ - \_\_\_\_\_

b. EMPLOYER \_\_\_\_\_

c. PETITIONER \_\_\_\_\_

d. INTERVENOR \_\_\_\_\_

e. INTERVENOR \_\_\_\_\_

**3. BLOCKING CHARGE** The processing of the representation case has been suspended (or is subject to suspension) under the following rule:

**WAC 391-25-370 Blocking charges--Suspension of proceedings--Request to proceed.** (1) The executive director may suspend the processing of a representation petition under this chapter pending the outcome of related unfair labor practice proceedings, where:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election.

(2) The complainant(s) in the unfair labor practice case may file and serve as required by WAC 391-08-120 a written request to proceed with the executive director. The request to proceed shall specify the case number of the representation proceeding, shall request that the representation petition be processed notwithstanding the pending unfair labor practice case, and shall waive the right to file objections under WAC 391-25-590 (1)(a) based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed under this subsection, the executive director shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed. ...

**4. WAIVER OF RIGHT TO FILE ELECTION OBJECTIONS** The party to the representation case which is also the complainant in the unfair labor practice case hereby requests the Commission to proceed with the processing of the representation case, notwithstanding the pending unfair labor practice case identified above. The party filing this request to proceed waives its right to file (and acknowledges that the Commission will not process) any objections in the representation case under WAC 391-25-590 based upon the conduct alleged in the unfair labor practice case identified above.

**5. AUTHORIZED SIGNATURE FOR UNFAIR LABOR PRACTICE COMPLAINANT**

NAME (PRINT) \_\_\_\_\_ TITLE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## INSTRUCTIONS FOR REQUEST TO PROCEED

**A. APPLICABLE RULES** The Public Employment Relations Commission (PERC) processes representation cases under Chapter 391-25 WAC, Chapter 391-08 WAC and Chapter 10-08 WAC. The Commission processes unfair labor practice cases under Chapter 391-45 WAC, Chapter 391-08 WAC and Chapter 10-08 WAC. The rules are available from PERC at (360) 753-3444 or on the web at [www.olywa.net/perc](http://www.olywa.net/perc). Parties should familiarize themselves with all of the rules applicable to their case.

**B. LIMITED SCOPE OF OBJECTIONS IN REPRESENTATION PROCEEDINGS** Proceedings under Chapter 391-25 WAC are limited to determination of issues concerning the creation or termination of bargaining relationships. While the Commission maintains "laboratory conditions" for employees to implement their statutory right to select or decertify an exclusive bargaining representative, the objections procedures of WAC 391-25-590 are limited to the types of conduct prohibited by WAC 391-25-470 and WAC 391-25-490, as follows:

(1) The following prohibitions apply to assure appropriate conditions for employees to cast their ballots:

(a) The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice in an election is prohibited.

(b) The use of deceptive campaign practices improperly involving the commission and its processes is prohibited.

(c) The use of forged documents is prohibited.

(d) Coercion or intimidation of eligible voters, or any threat of reprisal or force or promise of benefit to eligible voters, is prohibited.

(e) Changes of the status quo concerning wages, hours or other terms and conditions of employment of employees in the bargaining unit are prohibited during the period that a petition is pending before the commission under this chapter.

(f) Misrepresentations of fact or law are prohibited. To set aside an election, a misrepresentation must:

(i) Be a substantial misrepresentation of fact or law regarding a salient issue;

(ii) Be made by a person having intimate knowledge of the subject matter, so that employees may be expected to attach added significance to the assertion;

(iii) Occurring at a time which prevents others from effectively responding; and

(iv) Reasonably viewed as having had a significant impact on the election, whether a deliberate misrepresentation or not.

[FOR MAIL BALLOT ELECTIONS] (g) Election speeches on the employer's time to massed assemblies of employees are prohibited during the period beginning twenty-four hours before the scheduled date for the issuance of ballots to employees and continuing through the tally of ballots.

[FOR ON-SITE ELECTIONS] (g) Election speeches on the employer's time to massed assemblies of employees are prohibited during the period beginning twenty-four hours before the scheduled time for the opening of the polls and continuing through the tally of ballots.

(h) There shall be no electioneering at or about the polling place during the hours of voting.

...

(3) Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

General claims of interference, domination, discrimination and refusal to bargain must be processed as unfair labor practices under Chapter 391-45 WAC, but any unfair labor practice committed during the pendency of a representation case could constitute a basis for objections under WAC 391-25-590.

**C. THE "BLOCKING CHARGE" POLICY** As a general rule, PERC suspends the processing of representation cases until all pending unfair labor practice allegations have been ruled upon and any violations that are found have been remedied. The employees will then be free to exercise their statutory rights under the desired "laboratory conditions".

**D. THE REQUEST TO PROCEED EXCEPTION** In some situations, complainants are willing to take their chances on the outcome of a representation election regardless of their unfair labor practice claims, and so are willing to waive the right to file "objections" under WAC 391-25-590. Such waivers must be the voluntary act of the complainant.

**E. FILING** Take or send the completed and signed form (plus one copy) to PERC's Olympia office.

**D. SERVICE** The party that files a Request to Proceed with PERC is required to give or send a copy to all other parties to the case. WAC 391-08-120 includes:

(3) A party which files or submits any papers to the agency shall serve a copy of the papers upon all counsel and representatives of record, and upon all parties not represented by counsel or upon their agents designated by them or by law. Service shall be completed no later than the day of filing or submission under subsection (1) or (2) of this section, by one of the following methods:

(a) Service may be made personally, and shall be regarded as completed when delivered in the manner provided in RCW 4.28.080;

(b) Service may be made by first class, registered, or certified mail, and shall be regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service may be made by telegraph or by commercial parcel delivery company, and shall be regarded as completed when deposited with a telegraph company or parcel delivery company properly addressed and with charges prepaid.

(d) Service may be made by electronic telefacsimile transmission, and shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission, together with same day mailing of a copy of the papers, postage prepaid and properly addressed, to the person being served.

On the same day that service of any papers is completed, WAC 391-08-120(4) requires the person who completed the service to either obtain an acknowledgment of service from the person who accepted personal service, or make a certificate stating the date and the approved method of service used by the person signing the certificate.